BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JERRY E. SQUIRES Claimant	}
VS.)) Docket No. 143,292)
EMPORIA STATE UNIVERSITY Respondent	
AND	\
STATE SELF INSURANCE FUND Insurance Carrier	}

ORDER

Claimant appeals from an Award rendered by Special Administrative Law Judge William F. Morrissey on July 19, 1994, denying claimant's request for workers compensation benefits.

APPEARANCES

Claimant appeared by and through his attorney, David O. Alegria of Topeka, Kansas. Respondent and its insurance carrier appeared by and through their attorney, Jeffrey K. Cooper of Topeka, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The sole issue considered on appeal is whether claimant's injury arose out of and in the course of his employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties the Appeals Board finds claimant's injury did not arise out of his employment and, accordingly, the decision by the Administrative Law Judge should be affirmed.

Claimant was injured on January 3, 1990, while doing traffic surveillance as a part of his duties as a police officer for Emporia State University. The injury resulted from accidental discharge of a 9 millimeter automatic pistol. The pistol was a personal weapon

IT IS SO ORDERED

which claimant had retrieved from a pawn shop earlier that day. The weapon discharged as he checked the pistol to determine whether it needed to be cleaned. The evidence establishes that claimant was not authorized to carry a backup weapon. The evidence further establishes that he had requested permission to qualify his 9 millimeter pistol for use in his employment, but the request was denied. Claimant acknowledges in his testimony that the handling of his personal 9 millimeter handgun was not related to the performance of his duties for respondent. The Appeals Board concludes the discharge of the weapon resulted from purely personal activity, was not work related and benefits should, accordingly, be denied.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the July 19, 1994 Award entered by Special Administrative Law Judge William F. Morrissey should be, and the same is hereby, affirmed.

THE GO ORDERED.
Dated this day of July, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: David O. Alegria, Topeka, Kansas Jeffrey K. Cooper, Topeka, Kansas William F. Morrissey, Special Administrative Law Judge David A. Shufelt, Acting Director